



# Missouri Department of Natural Resources

## MINUTES MISSOURI SOIL AND WATER DISTRICTS COMMISSION DNR CONFERENCE CENTER Jefferson City, Missouri September 10, 2004

**COMMISSION MEMBERS PRESENT VIA TELEPHONE:** John Aylward, Elizabeth Brown, Larry Furbeck, Leon Kreisler, Philip Luebbering, and Kirby Van Ausdall

**EX-OFFICIO MEMBERS:** STEPHEN MAHFOOD, DEPT OF NATURAL RESOURCES: Scott Totten

**ADVISORY MEMBERS PRESENT VIA TELEPHONE:** NRCS: Dwaine Gelnar, Dick Purcell via telephone

**ADVISORY MEMBERS PRESENT:** SOIL & WATER CONSERVATION PROGRAM: Sarah Fast;

**STAFF MEMBERS PRESENT:** Niki Aberle, Gary Baclesse, April Brandt, Noland Farmer, Rose Marie Hopkins, Joyce Luebbering, Theresa Mueller, Marcy Oerly, Jim Plassmeyer, Ron Redden, Ken Struempfler, Chris Wieberg, and Bill Wilson

**OTHERS PRESENT VIA TELEPHONE: DISTRICTS:** JASPER: Lynne Dawson  
WRIGHT: Melissa Wollard

**OTHERS PRESENT: STATE OF MISSOURI: ATTORNEY GENERAL'S OFFICE:**  
Harry Bozoian

### A. CALL TO ORDER

Chairman Elizabeth Brown called the meeting to order at the DNR Conference Center in Jefferson City, Missouri, in the Ha Ha Tonka Room at 8:34 AM.

### B. MINUTES OF THE LAST MEETING

Larry Furbeck made a motion to approve the minutes of the July 21, 2004 commission meeting as mailed. Kirby VanAusdall seconded the motion. A poll vote was called. John

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Aylward, Larry Furbeck, Leon Kreisler, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion. The motion passed unanimously.

### **C. APPEALS**

#### **1. Cost-Share**

- a. Wright Soil and Water Conservation District (SWCD) –  
Reconsideration of the Soil and Water Districts Commission’s  
Decision to Deny Cost-Share to a Landowner Approved for a Planned  
Grazing System (DSP-3) Beyond the Four-Consecutive Year Policy**  
Marcy Oerly presented an appeal from the Wright SWCD asking the commission to again review their request for an exemption to the DSP-3 policy concerning the four-year participation limitation.

Commission policy states that the \$9,000 DSP-3 maximum can be obtained through multiple applications over a four-consecutive year period. Multiple applications can be for the same farms and fields or for different farms and fields. The four-consecutive year period begins from the day the board approves the initial claim, meaning that the last application must be approved within that four-year period.

Ms. Oerly reminded the commission that at the July meeting they approved appeals from Jasper, Clark, and Platte SWCDs due to the fact that the practices were already installed and that the four-year problem was only discovered after they were submitted to the program for payment. At that time, the commission voted to maintain current policy concerning the Wright SWCD request based on the fact that the landowner had not yet started the practice. It was noted that at the January 2003 commission meeting, the commission voted to maintain current policy concerning requests from Ste. Genevieve, Wright, and Dade SWCDs. The landowners involved in those requests had not started the practices.

In a letter dated July 15, 2004, the Wright Board of Supervisors requested an exception to the DSP-3 policy. In June of 2000, Mr. Kenneth Lebahn’s claim for his first DSP-3 was approved. On August 18, 2003, the landowner returned to the district office and talked about expanding this grazing system to additional fields. Due to the transfer of the NRCS Grassland Specialist, no follow-up was done with Mr. Lebahn. On March 24, 2004, Mr. Lebahn returned to the office to check on the status of his DSP-3 application and he was informed the district did not have the funds to approve his cost-share application at that time. On April 22, 2004,

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additional cost-share funds were received and Mr. Lebahn was called, but there was no answer. On July 7, 2004, Mr. Lebahn called the district office to check on cost-share availability and it was at that time that the district manager noticed the DSP-3 four-year participation limit had expired in June.

Ms. Oerly stated the board has now assigned an employee to install a system to more closely monitor practice time limitations.

In a letter dated August 12, 2004, the board requested the commission revisit the decision made at the July meeting concerning Mr. Lebahn. The letter stated the commission approved the Jasper and Clark appeals to waive the four-year participation policy but denied the same request from their district. The board believed that the only difference in their request and the other districts' appeals was that their district staff caught the mistake before the landowner was approved for cost-share instead of the program staff finding it when the claims were submitted for payment. The letter also stated that had their staff not followed commission policy and approved Mr. Lebahn's application, the commission would have approved him for cost-share as well. The board felt the commission might be setting a precedent that it is better to ask for forgiveness rather than ask for permission.

Missy Woolard from Wright SWCD stated that Ms. Oerly had presented the facts as they were. She also stated that they felt that if they had not found the error on the four-year limit, it would have been approved with the appeals from the last commission meeting. John Aylward stated he felt the district did what they were supposed to do so they caught the problem. Mr. Aylward pointed out that there had not been any money spent, which made this appeal different from the others that were approved in July. Philip Luebbering agreed with Mr. Aylward's statement. Larry Furbeck also agreed with the statement made. Mr. Furbeck pointed out that the others that were approved were due to the fact that nothing had been noticed and the commission did not want to penalize a landowner after the money had been spent. Elizabeth Brown stated she felt that after the two were approved at the July meeting, the commission would run into something like this. Leon Kreisler stated he felt it was a district error and the landowner should not be penalized. Ms. Woolard stated the landowner did come into the office and tried to apply for cost-share before his four years were up, but they lost their grassland specialist that was assisting Mr. Lebahn and there was no follow up. She reinforced that the

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landowner had done everything he could to show interest. Ms. Woolard reiterated that a person has been assigned to install a system to monitor the time limits. When asked if the county would have had the money if Mr. Lebahn had applied, Ms. Woolard stated that yes, they had received additional funding on April 23, 2004. They called the landowner but there was no answer. They did not follow up with him further as it was close to the end of the fiscal year. In response to a question about if the funds were available when he originally contacted the district, Ms. Woolard stated that when the landowner came on March 24, 2004, there were no funds.

Leon Kreisler made a motion to make a variance for Wright County. Failing to receive a second, the motion died and current policy remained in force.

### **D. REVIEW/EVALUATION**

#### **1. Land Assistance Section**

##### **a. Cost-Share**

##### **1. Allocation of Additional Regular Cost-Share Funds for FY 2005**

Ron Redden presented a review of the cost-share funds for FY05. In FY04, 64 districts obligated 90 to 100 percent of their allocations. Of the remaining, 13 obligated 80 to 89 percent, 24 obligated 60 to 79 percent of their allocation, seven obligated 40 to 59 percent of their allocation, and six were below 40 percent of their allocation.

In FY04 of the amount allocated, 45 districts claimed between 90 to 100 percent, 40 claimed between 80 to 89 percent, 25 claimed between 60 to 79 percent, and 24 claimed less than 60 percent of their allocation. Over the years, the districts have claimed a total of 83 percent all the way to 87 percent of the total amount allocated.

For FY05, there was \$20,250,000 appropriated. The amount allocated, as of this meeting was \$19,914,874, which leaves \$335,126 available.

In order for the districts to claim all of the appropriation, Mr. Redden reported a need to make \$24,000,000 available to the

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districts. To do this, the remaining \$335,126 would need to be allocated along with allocating an additional \$3,750,000. To maximize cost-share funds, it is important to get additional funds to the districts with soil erosion needs and get the funds to districts who have demonstrated they have the management skills to obligate and claim their funds.

According to Mr. Redden, last year additional funds were offered to districts that claimed at least 80 percent of their previous year's total allocation. There were 90 districts that were offered an additional \$38,700. Also, any funds not accepted were re-offered to the 90 districts that claimed at least 80 percent who still requested additional funds.

When asked if what they did last year worked, Mr. Redden stated it went well and most all the money in the amount of \$3,337,000 will be accepted by the districts that claimed 80 percent or more. Mr. Redden also pointed out that some districts might not want the full amount. Most of the time boards are conservative and they try not to ask for more funds than they can obligate. Philip Luebbering asked if the counties that were behind in cost-share due to the weather last year had caught up on their cost-share, Mr. Redden answered that most of the counties caught up. When asked if the total claimed in FY04 was the 83 percent during the initial time period without the reallocation, Mr. Redden stated no, that total was all of the funds.

John Aylward made a motion to offer \$68,500 to each of those 65 districts claiming at least 80 percent of last year's allocation and, from the amount not accepted, offer the amount not accepted to any district claiming at least 80 percent requesting more additional funds. Kirby VanAusdall seconded the motion. When polled, John Aylward, Larry Furbeck, Leon Kreisler, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in of the motion and the motion passed unanimously.

Sarah Fast clarified that the 84 percent was from last year's total \$23,000,000. The districts claimed \$19,000,000, which was 84 percent of the \$23,000,000 allocated. When asked what would happen if you spend more money than allocated, Ms. Fast stated

they have the “E” now on the cost-share appropriation, which is a safeguard for this situation.

## **E. REQUEST**

### **1. District Assistance Section**

#### **a. Ste. Genevieve SWCD – Matching Grant Request**

Jim Plassmeyer presented a request from the Ste. Genevieve SWCD to approve a matching grant proposal after the item was purchased.

Current policy for the 1 to 1 matching grant program is that the program staff must approve the proposal prior to the purchase. The district board fills out a proposal and submits it to the program, program staff reviews the proposal and approves it if it meets all the requirements. If approved, the proposal is returned to the district for purchase.

On August 12, 2004, the program received a faxed matching grant proposal for a no-till drill, and a bill of sale dated August 5, 2004, for the drill. Program staff contacted the district and informed them the grant could not be approved and they would have to make a request to the commission. In a letter dated August 25, 2004, the district stated their district manager was new and had no experience with matching grants and misunderstood when talking with staff about advance funding. In order to receive an advancement of funds, the district must have an approved matching grant proposal and submit a bid of the cost of the drill from the place they will purchase it.

When asked if the district did a bid process, Mr. Plassmeyer stated he did not know if they did or not. He reported that what the district found was a local landowner who wanted to sell his drill and they purchased it from him. One of the board members found a good deal on it and the board decided to purchase it. Larry Furbeck asked if the district had advanced money on the drill purchase. Mr. Plassmeyer stated the district had already purchased the drill. When Kirby VanAusdall asked if bids are required on this type of purchase, Mr. Plassmeyer stated most district do a bid process on large purchases. He reiterated that he thought the district felt they found a good deal on the used piece of equipment. Elizabeth Brown reiterated that the issue was that they purchased the drill without the paper work being filled out first.

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Leon Kreisler made a motion to approve the board's request. Philip Luebbering seconded the motion.

Mr. VanAusdall stated that when you handle tax money, certain procedures must be followed, and he did not feel he could approve a \$5,000 expenditure when bids were not taken. When asked if it was purchased from a board member, Sarah Fast stated it was not purchased from a board member. The board member found the drill.

A poll vote was taken. John Aylward, Larry Furbeck, Leon Kreisler, Philip Luebbering and Elizabeth Brown voted in favor of the motion and Kirby VanAusdall voted against the motion. The motion passed.

Ms. Fast stated that due to the conversation, staff would get comments together to reinforce appropriate procedures for the Training Conference.

## **b. Supervisor Appointments**

### **1. St. Clair SWCD**

Rose Marie Hopkins presented a request from the St. Clair SWCD to appoint Kathy Conrad to fill the term of David Knight who had moved from Area 1.

Philip Luebbering made a motion to approve the request. Kirby VanAusdall seconded the motion. A poll vote was taken. John Aylward, Larry Furbeck, Leon Kreisler, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion passed unanimously.

### **2. Taney SWCD**

Rose Marie Hopkins presented a request from the Taney SWCD to appoint John Calhoun to fill the unexpired term of Melvin Braden who resigned in June of 2004.

Kirby VanAusdall made a motion to approve the request. Larry Furbeck seconded the motion. A poll vote was taken. John Aylward, Larry Furbeck, Leon Kreisler, Philip Luebbering, Kirby VanAusdall, and Elizabeth Brown voted in favor of the motion and the motion passed unanimously.

**2. Land Assistance Section**

**a. Cost-Share**

**1. Jasper SWCD – Reconstruction of an Existing Waterway**

Joyce Luebbering presented a request for the commission to provide cost-share assistance to reconstruct a Sod Waterway (DWP-3) damaged by excessive rainfall.

Commission policy states that districts and landowners have a responsibility to protect the investment already made for practices installed to correct excessive erosion, and in order to insure the investment, the commission may authorize cost-share assistance on practices that fail through no fault of the landowner.

Reconstruction cost-share is only eligible on practices that failed during the maintenance life of the practice. To be eligible, districts can request reconstruction cost-share if a single storm event causes widespread failure of state cost-shared structural practices within a county. The reconstruction must meet NRCS Standards and Specifications and the life span of the practice is extended for another ten years after completion of the reconstruction.

In a letter dated September 2, 2004, the board stated it had approved the claim for the DWP-3 on January 9, 2004. The board also stated that due to large amounts of rainfall in the spring of 2004, there was extensive damage to the waterway.

The district informed the program office that four inches of rain fell in January and between March 1 and June 1, 2004 approximately 32 inches of rain were received. The district also stated the practice was a dormant seeding and the damage was a result of the wet conditions kept the landowner from properly maintaining the problem areas. It was noted the landowner did place straw bales within the waterway to try to lessen some of the damage that was occurring.

Ms. Luebbering stated the original practice cost was \$7,118.94 of which the landowner received \$4,747.69 in cost-share. It was estimated that \$4,744.45 would be needed to repair the damage to the waterway. This amount would cover construction, fertilizer, lime, and seed.



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Ms. Luebbering informed the commission that in the past, there had been five similar requests that were approved and five denied.

It was noted that on September 9, 2004, the district notified the program office that the work for the reconstruction had already been completed by the landowner. The board stressed that they were unaware the work was completed when the request was submitted to the commission.

Elizabeth Brown asked if the practice was rebuilt before approval was given, Lynne Dawson stated it had been. The board did not discover this until September 7, 2004, which was after they sent the letter. When asked if the practice only served five acres, Ms. Dawson stated yes. In response to a question about the original cost being approximately \$7,000, Mr. Dawson stated that was correct and another \$4,700 was requested. When asked what the board's position was on this since the landowner had already done the work before it was approved, Mr. Dawson stated the board was not happy with the way it was done and that the board would be happy with whatever the commission decided. Larry Furbeck stated that it appeared the landowner took his ten-year obligation seriously and went ahead and did the work without approval, with the assumption that it needed to be taken care of. Kirby VanAusdall stated he felt the landowner was aware of the proper procedure.

It was the consensus of the commission to maintain current policy.

Ms. Brown stated that in the past cost-share had been given to new practices that failed. Mr. Luebbering stated the reason he was in favor of denying the request was because the landowner completed it before it was approved by the commission or his local district. John Aylward stated he did not think the landowner followed the right procedures, but he did take initiative to fix the problem.

### **F. DATE OF THE NEXT MEETING**

The date of the next commission meeting was set tentatively for Thursday, November 4, 2004, beginning at 8:30 am. at DNR Conference Center in the Bennett Springs/Roaring River room in Jefferson City, Missouri.

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Philip Luebbering stated that at the area meeting in visiting with some of the local districts, he was asked if the \$500.00 was per item on cost-share or per check. Mr. Luebbering asked if Mr. Redden could have some answers for the next meeting. Ms. Brown stated she thought it was per practice. Mr. Redden stated that what the commission passed at the last meeting was if the invoice was in excess of \$500.00 then the landowner would be required to support that with a cancelled check, a cashier's check, or other documentation. They would not look at individual items on the invoice. Mr. Luebbering stated that some people stated that they should purchase items separately, so it would be under the \$500.00. Mr. Redden stated that program staff should be able to address that at the Training Conference.

When asked how many commissioners thought they could make the Training Conference, Philip Luebbering, Larry Furbeck, Leon Kreisler, John Aylward, Kirby VanAusdall stated they could.

### **G. ADJOURNMENT**

Philip Luebbering made a motion that the meeting be adjourned. Kirby VanAusdall seconded the motion. The motion was approved by consensus of the commission at 9:42 AM.

Respectfully submitted,

Sarah E. Fast, Director  
Soil and Water Conservation Program

Approved by:

Elizabeth Brown, Chairman  
Missouri Soil & Water Districts Commission

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